IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

Bail Appl..No. 4126 of 2007()

PETITIONER : ACCUSED

ALEX.Y.,AGED 41 YEARS,
S/O.YESUDAS,KAILASBHAVAN,
KOCHUKARINTHIRUV,
ELAPPARA,IDUKKI DISTRICT.

BY ADV. SRI.SHYAM K.L.

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 4126 of 2007

- -

Dated this the 9th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioner was allegedly found to be in possession of 3 litres of arrack on 25.6.2007. He took to his heels on seeing the detecting Excise party. He could not be apprehended. Investigation is in progress. The petitioner apprehends imminent arrest. The learned counsel for the petitioner submits that the petitioner is absolutely innocent and directions under Section 438 Cr.P.C. may be issued in favour of the petitioner.

2. The learned Prosecutor opposes the application. Valuable materials convincingly point to the guilt of the accused. His name appears in the seizure mahazar and occurrence report. There are no circumstances justifying the invocation of the discretion under Section 438 Cr.P.C., submits the learned Prosecutor.

3. I find merit in the opposition by the learned Prosecutor. There is no specific allegation of malafides also. In these circumstances, I am satisfied that this is a fit case where the petitioner must resort to the ordinary and regular procedure of

appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously.

4. This application is accordingly dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate having jurisdiction and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

tm